

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

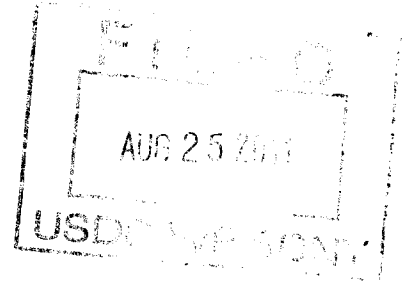
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RONALD GOLDBLATT,  
individually and on behalf of a class,

Plaintiff,

vs.

FABIANO & ASSOCIATES, P.C. and LACY KATZEN LLP

Defendants.



**11 CIV 5982**

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**COMPLAINT - CLASS ACTION**

**INTRODUCTION**

**JUDGE KARAS**

1. Plaintiff brings this action to secure redress against unlawful credit and collection practices engaged by defendants Fabiano & Associates, P.C. and Lacy Katzen LLP. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"). The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337 and 15 U.S.C. §1692k (FDCPA).
3. Venue and personal jurisdiction over defendants in this District is proper because defendants' collection activities impacted plaintiff here and because defendants transact business here.

PARTIES

4. Plaintiff Ronald L. Goldblatt is an individual who resides in Monsey, New York.
5. Defendant Fabiano & Associates, P.C. is a Domestic Professional Corporation located in Liverpool, New York. Defendant attempts to collect debt.
6. Defendant Lacy Katzen LLP is a Limited Liability Partnership located in Rochester, New York. Defendant states that Francesco Fabiano, Esq. has joined Lacy Katzen LLP. Defendant attempts to collect debt.

FACTS

7. On September 17, 2010, Defendant Fabiano & Associates, P.C. filed a Summons and Complaint against Ronald Goldblatt for a Consumer Credit Transaction. The creditor is listed as LVNV Funding, LLC. The Complaint states that Mr. Goldblatt entered into a contract with the Plaintiff and the Complaint bore the Attorney Certification of Francesco Fabiano, who certified that Mr. Fabiano had no knowledge that any of the factual submissions are false. Exhibit A.
8. On or about November 15, 2010, Lacy Katzen, LLP sent Mr. Goldblatt a letter which stated that Francesco Fabiano, Esq. has joined Lacy Katzen LLP. The letter further stated that the LVNV Funding, LLC matter in which Fabiano & Associates, PC was the attorney of record is now being handled by Lacy Katzen LLP. The letter further sought additional costs of \$210.00. Exhibit B.
9. On December 15, 2010, Ronald Goldblatt timely disputed the validity of the debt.
10. To date, defendants, having filed a lawsuit, against Robert Goldblatt, with attendant Attorney Certification, have been unable to verify the LVNV Funding, LLC debt. Exhibit C.

### **VIOLATIONS ALLEGED**

11. Exhibits A and B violate 15 U.S.C. §§1692e, 1692e(10), 1692g(a)(2) and 1692g(b) by defendant attorneys filing Summonses and Complaints against consumers and attempting to collect the costs of suit, absent the ability to certify that the facts are true, as required, or provide basic verification of the validity of a debt for greater than nine months.

### **CLASS ALLEGATIONS**

12. Pursuant to Fed.R.Civ.P. 23(a), plaintiff brings this claim on behalf of a class.

13. The class consists of (a) all natural persons with addresses in New York (b) who were sent a Summons and Complaint such as Exhibit A (c) or a collection letter such as Exhibit B, (d) seeking to collect an LVNV Funding LLC debt and costs (d) on or after a date one year prior to the filing of this action and ending 20 days after the filing of this action.

14. The class is so numerous that joinder is impracticable.

15. On information and belief, there are more than 50 natural persons with addresses in New York who were sent as documents to Exhibits A and B on or after a date one year prior to the filing of this action and ending 20 days after the filing of this action.

16. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members.

The predominant common questions are:

a. Whether Fabiano & Associates, P.C. Consumer Credit Complaints filed against consumers on behalf of LVNV Funding LLC contain allegations known to be true.

b. Whether Lacy Katzen LLP collection attempts on behalf of LVNV Funding, LLC in furtherance of Fabiano & Associates, PC lawsuits improperly seek costs of \$210 on debt it cannot verify.

c. Whether the collection letters and lawsuits violate the FDCPA.

17. Plaintiff's claims is typical of the claims of the class members. All are based on the same factual and legal theories.

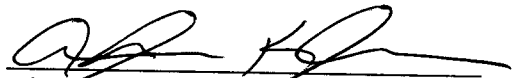
18. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

19. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible. The nature of the wrong depends on the deception of the consumer, so it is unlikely to be detected or remedied without a class action.

**WHEREFORE**, plaintiff requests that the Court enter judgment in favor of plaintiff and the class and against defendant for:

- a. Statutory damages;
- b. Attorney's fees, litigation expenses and costs of suit;
- c. Such other or further relief as the Court deems proper.

KLEINMAN LLC



Abraham Kleinman (AK-6300)

626 RXR Plaza

Uniondale, New York 11556-0626

Telephone (516) 522-2621

Facsimile (888) 522-1692

E-Mail: [akleinman@kleinmanllc.com](mailto:akleinman@kleinmanllc.com)

JURY DEMAND

Plaintiff hereby demands trial by jury.

  
Abraham Kleinman (AK-6300)

EXHIBIT A

CONSUMER CREDIT TRANSACTION

SEP 17 2010

SUPREME COURT, COUNTY OF ROCKLAND  
STATE OF NEW YORK

LVNV Funding, LLC  
15 South Main Street  
Greenville, South Carolina 29601

Plaintiff

Index #

SU-2010-012147

SUMMONS

v.  
RONALD L GOLDBLATT  
6 Concord Dr  
Monsey, New York 10952

Defendant(s)

TO THE ABOVE NAMED DEFENDANT:

**YOU ARE HEREBY SUMMONED AND REQUIRED** to serve upon Plaintiff's attorneys an Answer to the Complaint in this action within **twenty days** after the service of this Summons, exclusive of the day of service, or within thirty days after service is complete if this Summons is not personally delivered to you within the State of New York. In case of your failure to Answer, judgment will be taken against you by default for the relief demanded in the Complaint.

The basis of venue designated is the residence of the Defendant.

The Defendant's residence is in the County of Rockland.

The transaction took place in the County of Rockland.

Dated: July 28, 2010

**FABIANO & ASSOCIATES, P.C.**  
Attorneys for Plaintiff  
1035 7<sup>th</sup> North Street  
Liverpool, NY 13088  
(315) 453-9535

The law firm of Fabiano & Associates, P.C. is a debt collector and this is an action to attempt to collect a debt. Any information you provide may be used for that purpose.

10-00924-0

201014201

SUPREME COURT COUNTY OF ROCKLAND  
STATE OF NEW YORK

LVNV FUNDING, LLC

Plaintiff

**COMPLAINT**

vs.

RONALD L GOLDBLATT

Defendant(s)

PLAINTIFF, complaining of the Defendant(s) herein, alleges and respectfully shows to the Court as follows:

1. Plaintiff is a corporate entity and transacts business within the State of New York.
2. Upon information and belief, Defendant(s) is a resident of the County of Rockland and State of New York.
3. Plaintiff and Defendant(s) entered into a contract pursuant to which Plaintiff agreed to finance various retail transactions and/or loan money to and for Defendant(s), and issued to Defendant(s) one or more credit cards and/or accounts.
4. Pursuant to the terms of said contract Plaintiff became obligated to advance and did advance to and for the Defendant(s) certain sums of monies which were to be repaid in accordance with the terms of the contract.
5. Plaintiff rendered an account to the Defendant(s) for the sums owing to the Plaintiff, its assigns and/or successor in interest, from the Defendant(s). Defendant(s) received and retained said statement and has made no objections thereto. More than thirty (30) days have elapsed since the account was rendered and accordingly an account has been stated between the Plaintiff, its assigns and/or successor in interest and the Defendant(s).



6. By virtue of said account stated, there is now due and owing to the Plaintiff from the Defendant(s) the sum of \$2,343.88 with interest thereon at the rate of 9.000% per annum from 6/25/09, which remains due and owing.
7. Defendant(s) has failed and/or refused to repay to Plaintiff the balance due and owing despite demand therefore and that said sum is presently due and owing to Plaintiff from Defendant(s).

WHEREFORE, Plaintiff demands judgment against the Defendant(s) in the sum of \$2,343.88 with interest on said sum from 6/25/09 at the rate of 9.000% per annum, together with the costs and disbursements of this action, together with such other and further relief which this Court may deem just proper and equitable.

**FABIANO & ASSOCIATES, P.C.**  
Attorneys for Plaintiff  
1035 7<sup>th</sup> North Street  
Liverpool, NY 13088  
(315) 453-9535

10-00924-0  
ccc

ATTORNEY CERTIFICATION

I, Francesco Fabiano, under penalty of perjury and as an officer of the court, HEREBY CERTIFY, that I have no knowledge that the substance of any of the factual submissions contained in the aforesaid document is false.

DATE: July 28, 2010



\_\_\_\_\_  
Francesco Fabiano

Exhibit B

## LACY KATZEN LLP

Attorneys at Law

130 East Main Street, PO Box 22878, Rochester, NY 14692-2878

Telephone: (585) 324-5775 (866) 250-2112

Fax: (585) 269-3077

November 15, 2010

Ronald L Goldblatt  
6 Concord Dr  
Monsey NY 10952

Re: LVNV Funding, LLC  
Amount of Debt: \$2343.88 plus interest to November 15, 2010 of \$695.13 and costs of \$210.00  
Total due as of November 15, 2010 \$3249.01  
File No.: 201014201  
Contact: Adrienne at (585) 324-5775 or (866) 250-2112 - Press 2  
ext 1202

To the above named:

Francesco Fabiano, Esq. has joined Lacy Katzen LLP. This matter in which Fabiano & Associates PC was the attorney of record is now being handled by Lacy Katzen LLP.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this claim or any portion thereof, this office will assume it to be valid. If you notify us IN WRITING within 30 days of receiving this notice that the claim or any portion thereof is disputed, we will obtain evidence verifying the debt against you and mail a copy to you. If you so request IN WRITING within 30 days of receiving this notice, we will also provide you with the name and address of the original creditor involved in this claim, if different from the current creditor named above.

**THIS IS AN ATTEMPT TO COLLECT A DEBT  
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE**

Very truly yours,  
LACY KATZEN LLP

COLLECTION DEPARTMENT



IF YOU DISPUTE THIS DEBT OR ANY PORTION THEREOF, YOU MUST NOTIFY US IN WRITING WITHIN 30 DAYS OF RECEIVING THIS NOTICE. IF YOU DO NOT NOTIFY US WITHIN 30 DAYS OF RECEIVING THIS NOTICE, WE WILL ASSUME THE DEBT IS VALID. IF YOU NOTIFY US WITHIN 30 DAYS OF RECEIVING THIS NOTICE THAT THE DEBT IS DISPUTED, WE WILL OBTAIN EVIDENCE VERIFYING THE DEBT AGAINST YOU AND MAIL A COPY TO YOU. IF YOU SO REQUEST IN WRITING WITHIN 30 DAYS OF RECEIVING THIS NOTICE, WE WILL ALSO PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR INVOLVED IN THIS CLAIM, IF DIFFERENT FROM THE CURRENT CREDITOR NAMED ABOVE.

NYC Dept. of Consumer Affairs License No. 1327643

Exhibit C

Ronald L. Goldblatt  
6 Concord Drive  
Monsey, NY 10952

December 15, 2010

**SENT VIA FACSIMILE TO 585-269-3077**

Lacy Katzen LLP  
130 East Main Street  
Rochester, NY 14692-2878

Re: LVNV Funding, LLC vs. Ronald L. Goldblatt  
File No. 201014201  
Supreme Court – Rockland County  
Index No. SU-2010-012147

Dear Lacy Katzen LLP:

Attached please find a copy of an alleged LVNV Funding LLC collection letter. Please be advised that I dispute all parts of this LVNV Funding LLC debt.

1. Please send me verification of this disputed debt.
2. Please send me an accounting for how you computed the balance of \$2,343.88.
3. Please send me proof that LVNV Funding LLC is the current creditor and owns this alleged debt.
4. Please send me the name and address of the original creditor.

Sincerely,

*Ronald L. Goldblatt*